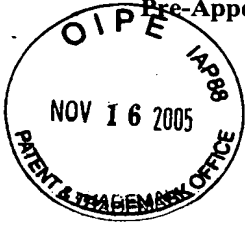


DOCKET NO.: MSFT-0279/148585.1
Pre-Appeal Brief Request for Review



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Paul England et al.

Confirmation No.: **2350**

Application No.: **09/892,298**

Group Art Unit: **2135**

Filing Date: **June 27, 2001**

Examiner: **Pich, Ponnoreay**

For: **Secure Video Card In Computing Device Having Digital Rights Management System**

DATE OF DEPOSIT: November 14, 2005

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the final rejection in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reasons stated on the attached sheets. No more than five pages are provided.

REMARKS – REASON FOR REVIEW

Claims 2-5, 7-10, 13-15, 17, 19-22, 24-27, 30-32, and 34 are pending in the present application and have been finally rejected. Claims 2 and 19 are independent claims, all other claims being dependent. Applicants request review of the final rejection of the above-identified application, consistent with the remarks previously considered and as summarized below.

The Examiner has finally rejected independent claims 2 and 19 and dependent claims 3, 4, 7, 13-15, 20, 21, 24, and 30-32 under 35 USC § 103(a) as being obvious over “SDMI Portable Device Specification” in view of Van Dyke (U.S. Patent No. 6,321,314) and further in view of Shear et al. (U.S. Patent No. 6,157,721). Final Office Action issued August 11, 2005, at page 4 et seq.

The Examiner has also rejected dependent claims 5, 8, 9, 10, 17, 22, 25, 26, 27, and 34 under 35 USC § 103(a) as being obvious over the aforementioned references, and variously further in view of Oka (U.S. Patent No. 6,028,596), Bertin et al. (U.S. Patent No. 5,604,755), and Hsu et al. (U.S. Patent No. 5,982,898). Final Office Action, at page 10 et seq.

However, Applicants respectfully submit that the aforementioned rejections fail to demonstrate the obviousness of the presently claimed invention.

Independent claims 2 and 19 in pertinent part recite a computing device that includes a digital rights management (DRM) system thereon for allowing rendering of protected digital content on the computing device. The content includes video content to be displayed on a monitor coupled to the computing device, and the computing device also includes a video section therein for receiving the content and for producing a video signal to

be sent to the monitor based on the received content. In pertinent part, claims 2 and 19 recite that:

- the video memory is configured to be write-only except with regard to the video section;
- the video memory is configured to be write-only with regard to rights-protected digital content allowed to be rendered by the DRM system; and
- the video section includes an authentication device for authenticating to the DRM system that the video memory is configured to be write-only except with regard to the video section. Reply to Final Office Action filed October 6, 2005, at page 4, lines 3-19 and page 5, lines 7-14.

The video section of claims 2 and 19 renders protected digital video content as allowed by the DRM system of the computing device, and includes video memory that may at least temporarily hold such video content in an unprotected form. Significantly, a nefarious entity may steal such unprotected video content by reading same from the video memory of such video section. The present invention as recited in claims 2 and 19 et seq., then, prevents such stealing by requiring that the video memory be write-only and thus not readable except by the video section and with regard to protected content, and also that the video section be able to prove such features to the DRM system. Reply, at page 4, line 22 – page 5, line 7.

The SDMI reference discloses a computing device that allows for the controlled rendering of protected digital content. However, and as the Examiner concedes, the SDMI device is not disclosed as having the video section with the write-only memory as

required by claims 2 and 19. Nevertheless, the Examiner points to the Van Dyke reference as providing same. Reply, at page 5, lines 15-22.

The Van Dyke reference discloses restricting memory access, but is otherwise wholly unconcerned with protecting DRM-controlled digital video content in a video memory from being stolen in an unprotected form. Such Van Dyke reference does not disclose or suggest that a video memory in a video section should be write-only in the manner recited by claims 2 and 19. Reply, at page 6, lines 1-10.

The rationale / motivation for combining the Van Dyke restricted access with the SDMI device as asserted by the Examiner is that ‘by restricting access to the memory, one is also restricting access to any content stored in the memory’’. However, Applicants respectfully point out that the Examiner has provided no evidentiary basis for such motivation other than the assertion itself. Moreover, Applicants respectfully point out that such a justification is wholly derived in hindsight , which is impermissible under In re Fine, 837 F.2d 1071 (Fed. Cir. 1988). In particular, the Van Dyke and SDMI references both fail to teach or suggest any need for restricting access to DRM-controlled digital video content resident in a video memory. Reply, at page 6, lines 11-18.

The Examiner also concedes that the SDMI and Van Dyke references do not disclose use of an authentication device for authenticating to the DRM system that the video memory is properly configured to be write-only, as is required by claims 2 and 19. Nevertheless, the Examiner points to the Shear reference as providing same. Reply, at page 6, line 19 – page 7, line 2.

The Shear reference teaches using an authentication device such as a digital signature to authenticate a module, but as with the Van Dyke reference is otherwise wholly

unconcerned with protecting DRM-controlled digital video content in a video memory from being stolen in an unprotected form. Such Shear reference in particular does not disclose or suggest that a video memory in a video section should be write-only in the manner recited by claims 2 and 19. performs as intended. Such Shear reference does not disclose or suggest that a video memory in a video section should or could include an authentication device for authenticating to a DRM system that the video memory is configured to be write-only in the manner recited in claims 2 and 19. Reply, at page 7, lines 3-18.

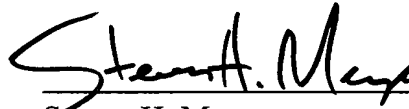
The rationale / motivation for combining the Shear authentication device with the SDMI device as asserted by the Examiner is that ‘it would allow for content providers to have better control over their digital content including legal distribution thereof / . . . ‘. However, as before, Applicants respectfully point out that the Examiner has provided no evidentiary basis for such motivation other than the assertion itself. Moreover, and again, Applicants respectfully point out that such a justification is also wholly derived in hindsight. None of the Shear, Van Dyke, and SDMI references teaches or suggests the need for authenticating to a DRM system that video memory is configured to be write-only in the manner recited in claims 2 and 19. Reply, at page 7, line 19 – page 8, line 8.

Dependent claims 3-5, 7-10, 13-15, 17, 20-22, 24-27, 30-32, and 34 depend from and further limit independent claims 2 and 19, and thus distinguish over the SDMI, Van Dyke, and Shear references as well.

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Thus , Applicants respectfully request reconsideration and withdrawal of the
final rejection of all claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven H. Meyer", written over a horizontal line.

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Date: November 14, 2005

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